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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,863	09/10/2003	Lee E. Cannon	0112300-1659	5044
29159	7590	08/12/2004	EXAMINER	
BELL, BOYD & LLOYD LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			NGUYEN, KIM T	
			ART UNIT	PAPER NUMBER
			3713	
DATE MAILED: 08/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,863

Applicant(s)

CANNON, LEE E.

Examiner

Kim Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 1, 5, 7-10, 13-14, 20, 22-23, 35, and 39 are objected to because of the following informalities:
 - a) In claim 1, line 3; and claim 20, line 3, the claimed limitation “a player” should be corrected to “the player”.
 - b) In claim 5; claim 20, line 6; and claim 35, line 6, the claimed limitation “the replacement” should be corrected to “a replacement”.
 - c) In claim 7, line 3; claim 8, line 3; claim 10, line 2; claim 13, lines 1-2; claim 14, line 1; claim 22, line 3; claim 23, line 4; and claim 39, line 1, the claimed limitation “at least one” should be corrected to “the at least one”.
 - d) In claim 7, line 4; claim 8, lines 3-4; claim 22, line 4; and claim 23, line 4, the claimed limitation “at least one other card” should be corrected to “the at least one other card”.
 - e) In claim 9, line 1, the claimed limitation “a card” should be corrected to “the card”.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 10-21, and 25-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks et al (US 2003/0040352).

a. As per claim 1, Marks discloses a method for operating a poker game. The method comprises receiving an initial wager (paragraph 0070); dealing a hand to the player (paragraphs 0073-0075); and providing an award to the player, if the negative card is in the hand, the negative card can not be a part of any winning combination (abstract; and paragraph 0023). Marks does not explicitly disclose evaluating the cards in the hand. However, Marks discloses awarding award to the player, and evaluating the cards before determining if the set of cards is the winning combination would have been well known. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the evaluating step to the method of playing poker game of Marks in order to facilitate determining winning of a hand of cards.

b. As per claim 2-4, Marks discloses dealing all the cards face-up (paragraph 0075). Further, dealing at least one or a plurality of cards face-up would have been both well-known and obvious design choice.

c. As per claim 5 and 12, Marks discloses allowing the player to replace a card (paragraph 0077).

d. As per claim 6, since Marks discloses including a wild card in the deck of cards (paragraph 0037), Marks obviously discloses a positive impact card.

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- e. As per claim 10-11, Marks discloses allowing the player to replace cards including negative cards (paragraph 0091). Further, with respect to claim 11, preventing the player to replace the negative card would have been obvious and design choice as preferred by the designer.
- f. As per claim 13-14, 16-17, and 19, displaying the replacement cards face-up, returning the replaced cards to the deck of cards, operating a game via internet network, and storing a method game in a memory would have been well known to a person of ordinary skill in the art at the time the invention was made.
- g. As per claim 15, Marks discloses the winning combination of cards such as two pairs, three of a kind, etc. (paragraph 0083).
- h. As per claim 18, Marks discloses displaying cards virtually (paragraph 0057).
- i. As per claim 20-21 and 25-44, refer to discussion in claims 1-4, 6, 10-11, and 13-19 above.

4. Claims 7-9 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks et al (US 2003/0040352) in view of Moody (US 2003/0189290).

- a. As per claim 7-8, Moody discloses revealing or displaying a face-down card after the replacement (Fig. 1; and paragraph 0032). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to reveal or to display whether the card is an impact card or a particular card to the player after the replacement in the method of Marks in order to enhance exciting in playing poker game.

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b. As per claim 9, randomly dealing a hand of cards and determining if the hand includes a specific card would have been well known to a person of ordinary skill in the art at the time the invention was made.

c. As per claim 22-24, refer to discussion in claims 7-9 above.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (703) 308-7915. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET. The central official fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.



Kim Nguyen
Primary Examiner
Art Unit 3713

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Date: August 5, 2004